

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEITH L. NASH,

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

Case No. C04-5785FDB

ORDER DENYING CERTIFICATE  
OF APPEALABILITY AND LEAVE  
TO FILE OVERLENGTH REPLY


Petitioner moves for a certificate of appealability of this Court's adoption of the conclusion in the Report and Recommendation that this petition is time barred pursuant to 28 U.S.C. § 2254(b)(2). Respondent opposes this motion and Petitioner also moves to file an overlength brief of 21 pages in reply to Respondent's three-page brief.

The Court is not convinced that the issue herein is one that reasonable jurists could debate or that the issue presented is one that is adequate to deserve encouragement to proceed further. *See Slack v. McDaniel*, 529 U.S. 473, 481-82 (2000).

ACCORDINGLY, IT IS ORDERED:

1. Petitioner's Motion for Certificate of Appealability [Dkt. # 42] is DENIED;
2. Petitioner's Motion for Leave to File Overlength Reply Brief [Dkt. # 46] is DENIED.

DATED this 24<sup>th</sup> day of August, 2005.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE